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ATTORNEYS AT LAW  
30 ROCKEFELLER PLAZA, NEW YORK, NEW YORK 10112  
TELEPHONE: (212) 278-0400

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GREGORY J. GARBO  
MIN "MICHAEL" LIN  
ENYINNAYA V. OBI  
LENN MONG

FACSIMILE: (212) 391-0525  
(212) 391-0526  
(212) 391-0630

OF COUNSEL  
CHRISTOPHER C. DUNHAM

SCIENTIFIC ADVISORS  
JACK ROSA, PH.D.  
LUIS MUNIZ, PH.D.  
RAYMOND CHUNG, PH.D.

\*NEW YORK STATE BAR ADMISSION PENDING

**FACSIMILE TRANSMISSION**

REGISTERED PATENT AGENTS  
ANDREW CHUNG, B.E.  
ELISA Y. KIM, B.A.

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TO : USPTO Central Facsimile Number  
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 FROM : Gary J. Gershik / MJP  
 DATE : March 23, 2009

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Revocation Of Power Of Attorney, Appointment Of New Attorneys, And Notice Of New Correspondence Address in connection with Michael Wayne Graham et al., GENETIC CONSTRUCTS FOR DELAYING OR REPRESSING THE EXPRESSION OF A TARGET GENE, Merged Ex Parte Reexamination Control Nos. 90/007,247 and 90/008,096 of U.S. Patent No. 6,573,099 B2, issued June 3, 2003, including Exhibits A, B, and C (copies of recorded assignments).

Our Docket 0687/74768/JPW/GJG/MJP

THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMISSION IS INTENDED SOLELY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENT(S) NAMED ABOVE. THIS TRANSMISSION MAY BE AN ATTORNEY-CLIENT COMMUNICATION CONTAINING INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT A DESIGNATED RECIPIENT OR AN AGENT RESPONSIBLE FOR DELIVERING IT TO A DESIGNATED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, OR IF UPON READING THIS DOCUMENT YOU HAVE REASON TO BELIEVE THAT THE DOCUMENT WAS INADVERTENTLY SENT TO YOU, PLEASE NOTIFY US IMMEDIATELY BY COLLECT TELEPHONE CALL AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

MAR 23 2009

MERGED REEXAMINATION

Dkt. 0687/74768/JPW/GJG/JRM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Merged Proceedings Pursuant To October 26, 2006 Order Of:

Ex Parte

Reexamination Control No. 90/007,247, filed October 4, 2004,

And

Ex Parte

Reexamination Control No. 90/008,096, filed May 18, 2006

Patentees : Michael Wayne Graham and Robert Norman Rice

Patent No. : 6,573,099 B2 Examiner : Ponnaluri, Padmashri

Issued : June 3, 2003 Art Unit : 3991

For : GENETIC CONSTRUCTS FOR DELAYING OR REPRESSING  
THE EXPRESSION OF A TARGET GENE

Serial No. : 09/100,812

Filed : June 19, 1998

1185 Avenue of the Americas  
New York, New York 10036

Mail Stop, Ex Parte Reexam  
Central Reexamination Unit  
Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

REVOCATION OF POWER OF ATTORNEY, APPOINTMENT OF NEW ATTORNEYS,  
AND NOTICE OF NEW CORRESPONDENCE ADDRESS

Michael Wayne Graham and Robert Norman Rice are the currently named inventors of the above-identified patent. Each of Michael Wayne Graham and Robert Norman Rice assigned his entire right, title and interest in and to the subject patent to joint assignees: 1) State Of Queensland Through Its Department Of Primary Industries, and 2) Benitec Australia Limited, by virtue of an Assignment of the subject patent executed by Michael Wayne

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Patentees : Michael Wayne Graham and Robert Norman Rice  
Reexamination  
Control Nos. : 90/007,247 and 90/008,096  
Patent No. : 6,573,099 B2  
Page 2 of 3 of Revocation Of Power Of Attorney, Appointment Of  
New Attorneys And Notice Of New Correspondence Address

Graham on June 30, 2003 and by Robert Norman Rice on June 17, 2003, a copy of which is attached hereto as Exhibit A, and which was recorded July 10, 2003 with the United States Patent and Trademark Office at reel 013782, frames 0915 to 0916.

The State Of Queensland Through Its Department Of Primary Industries assigned all of its rights and interests in the subject patent to Commonwealth Scientific And Industrial Research Organisation by virtue of an December 8, 2003 Assignment, a copy of which is attached hereto as Exhibit B, and which is being submitted for recordation to the United States Patent and Trademark Office concurrently herewith<sup>1</sup>.

Benitec Australia Limited assigned its entire right, title and interest in and to the subject patent to Commonwealth Scientific And Industrial Research Organisation by virtue of a Deed of Assignment, a copy of which is attached hereto as Exhibit C, and which is being submitted for recordation to the United States Patent and Trademark Office concurrently herewith.

Accordingly, Commonwealth Scientific And Industrial Research Organisation is the sole assignee of the entire right, title and interest in and to the subject patent.

<sup>1</sup> A copy of the six (6) page December 8, 2003 Assignment attached hereto as Exhibit B and a one (1) page Form PTO-1595 was submitted for recordation to the United States Patent and Trademark Office on February 13, 2004. However, the February 18, 2004 Notice of Recordation of Assignment Document issued by the U.S. Patent and Trademark Office in connection with the subject patent indicates that only four (4) pages of the seven (6 + 1 = 7) page submission was recorded at reel 014337, frames 0535 to 0538. For clarity in the record, the six (6) page December 8, 2003 Assignment is being resubmitted for recordation to the United States Patent and Trademark Office concurrently herewith.

Patentees : Michael Wayne Graham and Robert Norman Rice  
Reexamination  
Control Nos. : 90/007,247 and 90/008,096  
Patent No. : 6,573,099 B2  
Page 3 of 3 of Revocation Of Power Of Attorney, Appointment Of  
New Attorneys And Notice Of New Correspondence Address

Commonwealth Scientific And Industrial Research Organisation hereby pursuant to 37 C.F.R. § 3.73(b) revokes all powers of attorney previously granted and appoints the following attorneys: John P. White (Reg. No. 28,678); Gary J. Gershik (Reg. No. 39,992); Christopher C. Dunham (Reg. No. 22,031); Norman H. Zivin (Reg. No. 25,385); William E. Pelton (Reg. No. 25,702); Robert D. Katz (Reg. No. 30,141); Peter J. Philips (Reg. No. 29,691); and Paul Teng (Reg. No. 40,837); and each of them, all c/o Cooper & Dunham LLP, 1185 Avenue of the Americas, New York, New York 10036 (Tel. (212) 278-0400), its attorneys, each with full power of substitution and revocation, to make alterations and amendments to the subject patent, to receive the reexamination certificate, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please address all communications and direct all telephone calls regarding the subject patent to:

JOHN P. WHITE, ESQ.  
COOPER & DUNHAM LLP  
(CUSTOMER NUMBER 23432)  
1185 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10036  
TEL. (212) 278-0400

I am an official authorized to sign this Revocation Of Power Of Attorney, Appointment Of New Attorneys And Notice Of New Correspondence Address on behalf of the assignee listed below.

Commonwealth Industrial And Industrial Research Organisation

By: Robert C. de Feyter Date: 20<sup>th</sup> March 2009  
Robert C. de Feyter  
Intellectual Property Manager  
CSIRO Plant Industry

Mar-23-2009 01:51pm From-cooper&dunham

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## EXHIBIT A

0. 2003 11:00AM MOFO 28TH FL

NO. 773 P. 3

Attorney Docket No.: 546322004300

ASSIGNMENT  
JOINT

THIS ASSIGNMENT, by MICHAEL WAYNE GRAHAM and ROBERT NORMAN RICE (hereinafter referred to as the assignors), residing at 12 Lant Street, Chapel Hill, Queensland, Australia 4069, and 39 Foley Place, Bulimba Park, Queensland, Australia 4106, respectively, witnesseth:

WHEREAS, said assignors have invented certain new and useful improvements in GENETIC CONSTRUCTS FOR DELAYING OR REPRESSING THE EXPRESSION OF A TARGET GENE, set forth Letters Patent of the United States, bearing Patent No. 6,573,099, and issued on June 3, 2003; and

WHEREAS, BENITEC AUSTRALIA LIMITED, a corporation duly organized under and pursuant to the Laws of Australia and having its principal place of business at P.O. Box 4193, St. Lucia South, QLD 4067 Australia, and the STATE OF QUEENSLAND THROUGH ITS DEPARTMENT OF PRIMARY INDUSTRIES, and having its principle place of business at Primary Industries Bldg, 80 Anna Street, Brisbane Queensland 4000 Australia (hereinafter referred to as the Assignees) is desirous of acquiring the entire right, title and interest in and to said inventions and said application for Letters Patent of the United States and in and to any Letters Patent or Patents, United States or foreign, to be obtained therefor and thereof;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient consideration, the receipt of which is hereby acknowledged, said assignors have sold, assigned, transferred and set over, and by these presents do sell, assign, transfer, and set over, unto said Assignees, its successors, legal representatives and assigns, the entire right, title and interest in and to the above-mentioned inventions, application for Letters Patent, and any and all Letters Patent or Patents in the United States of America and all foreign countries which may be granted therefor and therein, and in and to any and all divisions, continuations and continuations-in-part of said application, or reissue or extensions of said Letters Patent or Patents, and all rights under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by said Assignees, for its own use and the use of its successors, legal representatives and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted as fully and entirely as the same would have been held and enjoyed by the assignors, had this sale and assignment not been made.

AND for the same consideration, said assignors hereby covenant and agree to and with said Assignees its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, said assignors are the sole and lawful owners of the entire right, title and interest in and to said inventions and the application for Letters Patent above-mentioned, and that the same are unencumbered and that said assignors have good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said assignors hereby covenant and agree to and with said Assignees, its successors, legal representatives and assigns, that said assignors will, whenever counsel of said Assignees, or the counsel of its successors, legal representatives and assigns, shall advise that any proceeding in connection with said inventions, or said application for Letters Patent, or any proceeding in connection with Letters Patent for said inventions in any country, including interference proceedings, is lawful and desirable, or that any division, continuation or continuation-in-part of any application for Letters Patent, or any reissue or extension of any Letters Patent, to be obtained thereon, is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent for said inventions, without charge to said Assignees, its successors, legal representatives and assigns, but at the cost and expense of said Assignees, its successors, legal representatives and assigns.

AND said assignors hereby request the Commissioner of Patents to issue said Letters Patent of the United States to said Assignees as the Assignees of said inventions and the Letters Patent to be issued therefor for the sole use of said Assignees, its successors, legal representatives and assigns.

Date

Michael Wayne GRAHAM

Date

Robert Norman RICE

04-1303124

RECORDED: 07/10/2003

PATENT  
REEL: 013782 FRAME: 0916

Mar-23-2009 01:51pm From-cooper&dunham

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T-978 P.007/016 F-705

## **EXHIBIT B**

BLAKE DAWSON WALDRON  
PATENT SERVICES

# Deed of Assignment

State of Queensland  
through its Department of Primary Industries

Commonwealth Scientific and Industrial Research Organisation

Blake Dawson Waldron Patent Services  
Level 39, 101 Collins Street  
Melbourne VIC 3000  
Telephone: +61 3 9679 3065  
Fax: +61 3 9679 3111

Ref: WJP IP CLN 1303 9625

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## ASSIGNMENT OF APPLICATIONS AND PATENTS

DATE 8 December 2003

## PARTIES

**State of Queensland through its Department of Primary Industries, of Primary Industries Building, 80 Ann Street, Queensland (Assignor)**

**Commonwealth Scientific and Industrial Research Organisation a body corporate established by the Commonwealth Science and Research Act 1949 and having its principal office at Limestone Avenue, Campbell in the Australian Capital Territory (Assignee)**

## RECITALS

The Assignor assigns all of its rights and interests in the Applications and Patents set out in the attached Schedule to the Assignee, on the terms set out in this Deed of Assignment.

## OPERATIVE PROVISIONS

## 1. DEFINITIONS

The following definitions apply in this document.

**Applications** means the patent applications described in the Schedule and any divisional applications from any of them and any amendments, continuations or continuations-in-part of any of them.

**Benitec Australia Limited**, ACN 080 299 645, of Suite 4, 242 Hawken Drive, St Lucia, Queensland (Benitec Australia)

**Patents** means the registered patents described in the Schedule and any divisional applications from any of them and any amendments, extensions, re-issues, or re-grants of any of them.

## 2. ASSIGNMENT

In consideration of the sum of \$1 and other good and valuable consideration now paid by the Assignee to the Assignor, receipt of which the Assignor acknowledges, the Assignor, as beneficial owner, assigns to the Assignee all its rights and interests in:

- (a) the Applications; and
- (b) the Patents.

## 3. REGISTRATION

The Assignor undertakes at the expense of the Assignee to do all acts and execute all documents necessary to ensure that the Applications and the Patents will issue jointly in the names of Benitec Australia Limited and the Assignee. In the event of default by the Assignor to perform such acts or execute necessary documents, but only after the Assignor has been given a proper and reasonable opportunity to perform the acts or

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3.

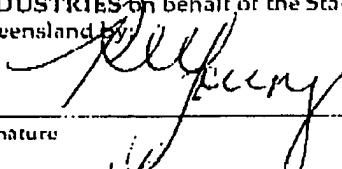
execute the documents, the Assignor appoint the nominee of the Assignee as the Assignor's attorney for that purpose.

4. GOVERNING LAW

This Deed is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

EXECUTED as a deed this 8<sup>th</sup> day of December 2003

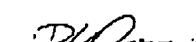
EXECUTED for and on behalf of the  
DEPARTMENT OF PRIMARY  
INDUSTRIES on behalf of the State of  
Queensland by:

  
Signature

PETER L. YOUNG

Name and position

Director, Biotechnology  
DPI

  
Signature of witness

D. DAVIS

Name of witness

EXECUTED for and on behalf of the  
COMMONWEALTH SCIENTIFIC AND  
INDUSTRIAL RESEARCH  
ORGANISATION by:

  
Signature

M. BAGHAI, Exec. Director  
Name and position

BD: C

  
Signature of witness

J. STEENE

Name of witness

1115H42K7

4.

**AGREEMENT TO ASSIGNMENT**

Benitec Australia Limited, ACN 080 299 645, of Suite 4, 242 Hawken Drive, St Lucia, Queensland hereby acknowledges its agreement to the assignment set out above.

SIGNED, SEALED AND DELIVERED for and on behalf of *KK Jan*  
*John*  
**THE COMMON SEAL OF BENITEC**  
**AUSTRALIA LIMITED**, the fixing of  
which was witnessed by:

*John*  
Signature of director

*John A McKinlay*  
Name

*Ken*  
Signature of director/secretary

*KEN C REEDS*  
Name

1415842N7

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## SCHEDULE

## APPLICATIONS AND PATENTS

## Granted Patents

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. ZA 2000/4507.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. AU 2001 100608.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. SC 75542.

Graham, M.W. and Rice, R.N. (2003) Genetic constructs for delaying or repressing the expression of a target gene. US 6,573,099.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. GB 2353282.

## Accepted Patents

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. AU 743316.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. NZ 506648.

## Patent Applications

Graham, M. W. and Rice, R.N. (US 09/997/905) Synthetic Genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (US 10/346,853) Synthetic genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (WO 99/49029 (PCT/AU/99/00195)) Control of gene expression.

Graham, M.W. and Rice, R.N. (BR PI9908967-0) Control of gene expression.

Graham, M.W. and Rice, R.N. (CA 2,323,726) Control of gene expression.

Graham, M.W. and Rice, R.N. (CN 99804255-2) Control of gene expression.

Graham, M.W. and Rice, R.N. (CZ PV2000-3346) Control of gene expression.

Graham, M.W. and Rice, R.N. (EP 99910039.9) Control of gene expression.

Graham, M.W. and Rice, R.N. (HK 01105904.3) Control of gene expression.

Graham, M.W. and Rice, R.N. (HU P0101225) Control of gene expression.

Graham, M.W. and Rice, R.N. (IN 2000/00169/DEL) Control of gene expression.

Graham, M.W. and Rice, R.N. (JP 12000-537990) Control of gene expression.

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Graham, M.W. and Rice, R.N. (KR 7010419/2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (MX 1108631) Control of gene expression.

Graham, M.W. and Rice, R.N. (PL P.343064) Control of gene expression.

Graham, M.W. and Rice, R.N. (SK PV1372-2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 95225/01) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 35647/02) Control of gene expression.

Graham, M.W. and Rice, R.N. (NZ 525941) Control of gene expression.

Graham, M.W. and Rice, R.N. (SG 200205122-5) Control of gene expression.

Graham, M.W. and Rice, R.N. (US 09/646,807) Control of gene expression.

**Priority Documents**

Graham, M.W. (1998) Synthetic genes and genetic constructs comprising same I. AU PP2492/98.

Graham, M.W. and Rice, R.N. (1998) Gene expression I. AU PP2499/98.

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## **EXHIBIT C**

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## DEED ASSIGNMENT OF PATENT

DATE made this 20th day of March 2009

## PARTIES

**Benitec Australia Limited** of c/o FAL Lawyers, 16/356 Collins St, Melbourne, Victoria, 3000, Australia (Assignor) and

**Commonwealth Scientific and Industrial Research Organisation**, Limestone Avenue, Campbell ACT, Australia (Assignee)

WHEREAS the Assignor is the co-owner with the Assignee of US Patent No. 6,573,099 (the Patent), and

WHEREAS the Assignee is desirous of acquiring the entire right title and interest in and to the Patent

NOW THIS DEED WITNESSES that in consideration of the sum of \$1.00 and other good and valuable consideration now paid by the Assignee to the Assignor, receipt of which the Assignor acknowledges, the Assignor, as beneficial co-owner, assigns to the Assignee its entire right, title and interest in and to US Patent No. 6,573,099 including any re-issues, re-examinations, re-grants or extensions thereof.

EXECUTED AS A DEED by the parties as of the date specified:

SIGNED for and on behalf of Benitec Australia Limited by:



Signature of director

In the presence of:



Signature of witness

Peter Francis  
Name (printed in full)

Jason Watson / Special Counsel, FAL  
Name / Position (printed in full)



Signature of director / secretary

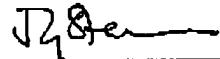


Signature of witness

Sue MacLeman  
Name (printed in full)

Jason Watson / Special Counsel, FAL  
Name / Position (printed in full)

SIGNED for and on behalf of  
Commonwealth Scientific and Industrial  
Research Organisation by:

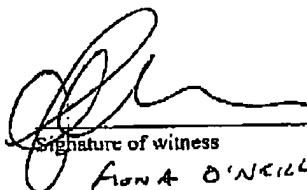


Signature

DR J. G. STEELE  
GENERAL MANAGER  
MAJOR TRANSACTIONS

Name / Position (printed in full)

In the presence of:



Signature of witness

FRAN A. O'NEILL

PERSONAL ASSISTANT

Name / Position (printed in full)

MAJOR TRANSACTIONS

Page 2 of 2

